

APPEAL NO. 010094

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on December 11, 2000, the hearing officer resolved the sole disputed issue by determining that the appellant's (claimant) compensable injury of _____, does not extend to include the left knee. The claimant has appealed, asserting that the evidence established that her left knee medial meniscus tear occurred while undergoing work hardening for her compensable back injury and is thus compensable as a treatment injury. The respondent (carrier) urges in response that the evidence is sufficient to support an affirmance.

DECISION

Affirmed.

The parties stipulated that on _____, the claimant sustained a compensable injury to her thoracic spine area. The claimant testified that she injured her left knee while undergoing a work hardening program following her compensable upper back injury. She explained that on _____, while performing weight lifting repetitions to exercise her legs and hips, she "felt the burn" in her left knee but continued with the exercises; that she applied ice to her left knee after finishing the exercises and skipped the program's afternoon walk outside; and that during the program's morning walk the next day, her left knee pain became so bad she had to discontinue the walk. The claimant said she had sustained an injury to her left knee in 1982, which was treated surgically, but that she had not had problems with the knee before injuring it during the work hardening.

Dr. C, a chiropractor, testified that he is the claimant's treating doctor for her back injury and that he referred her to the work hardening program which he owns. He stated that he understood from reports made to him that the claimant had hurt her left knee while riding a stationary exercise bicycle and that, given her preexisting condition, it is likely she sustained the injury either on the exercise bike or while on the walk.

Dr. S, to whom Dr. C referred the claimant for evaluation, reported on June 9, 2000, that his impression is primarily some chondromalacia and degenerative joint disease (DJD) with a flare-up secondary to the fact that she had no historical indications of any traumatic episode. He concluded that this was simply due to walking and exercise.

Dr. AC reported on June 13, 2000, that he performed a required medical examination of the claimant to determine whether she had reached maximum medical improvement for her injury and had impairment. He stated, among other things, that an April 24, 2000, MRI for the left knee was positive for DJD and subchondral cyst formation; that, in his opinion, her left knee complaints are not causally related to either the compensable injury or the work hardening program; and that she did not give a specific injury history but rather a vague history of pain following a walk during the work hardening program. Dr. AC stated his opinion that the claimant's knee symptoms are a "flare" of the preexisting DJD condition occurring during normal activities of daily living, unassociated with the compensable injury.

According to the medical records, the claimant underwent arthroscopic surgery on her left knee by Dr. KC on August 11, 2000. Dr. KC's operative note states, among other things, that the medial compartment showed medial meniscal tear and that this was "attritional."

In a November 16, 2000, report, Dr. AC stated that he reviewed the operative note of August 11, 2000, which identifies the meniscal tear as being that of an attritional or degenerative nature and not a traumatic or single-incident injury. He further stated that protracted walking is not consistent with an injury mechanism producing a discrete meniscal tear, and that all the provided data suggests the meniscal tear was of a degenerative nature and not related to a specific traumatic event.

The hearing officer found that on _____, the claimant did not sustain damage or harm to her left knee and that she did not sustain damage or harm to the physical structure of her body as a result of her participation in a work hardening program in which she was participating as a result of her compensable injury of _____.

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). We are satisfied that the hearing officer's findings are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Robert W. Potts
Appeals Judge